

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SANDRA B. BRADY,

Plaintiff,

v.

PLANO HOUSING
AUTHORITY/K. TEAGUE,

Defendants.

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CIVIL ACTION NO. 4:22-CV-01020-
SDJ-AGD

**MEMORANDUM ADOPTING IN PART THE REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation of the United States Magistrate Judge (“Report”), this matter having been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. The Report, (Dkt. #13), contains proposed findings of fact and the recommendation that Defendants’ Motion to Dismiss under Rule 12(b)(6) (Dkt. #10) be denied and that Plaintiff be ordered to amend her Complaint, in a manner that complies with the pleading requirements of the Federal Rules of Civil Procedure, within fourteen days of the Court’s adoption of the Report.


Having received the Report, and no timely objections being filed, the Court determines that the findings and conclusions contained in the Report should be **ADOPTED in part** and **MODIFIED in part**. The Court adopts all the Magistrate Judge’s findings and conclusions, except her conclusion that the motion to dismiss must be denied. Because Plaintiff’s claim is inadequately pleaded for the reasons explained in the Report, the Court finds that Defendants’ motion should be granted

as to the dismissal of Plaintiff's claim but denied as to Defendants' request that Plaintiff's claim be dismissed *with prejudice*.¹ It is the practice of this Court to afford litigants at least one opportunity to cure pleading deficiencies before dismissing a case, unless it is clear that the defects are incurable. *See, e.g., Brady v. Evangelical Lutheran Good Samaritan Society*, 2023 WL 6393882, at *6 (E.D. Tex. 2023).

It is, therefore, **ORDERED** that Defendants' Motion to Dismiss under Rule 12(b)(6) (Dkt. #10) is **GRANTED in part** and **DENIED in part**, and that Plaintiff's Complaint, (Dkt. #1), is **DISMISSED without prejudice**.

It is further **ORDERED** that Plaintiff has **fourteen days** from the date of this order to amend her complaint in a manner that complies with the pleading requirements of the Federal Rules of Civil Procedure. If an amended complaint is filed, Defendants may move once more to dismiss such amended complaint if they have grounds to do so. If Plaintiff fails to amend her pleading within fourteen days, Defendants may move for dismissal under Federal Rule of Civil Procedure Rule 41.

So ORDERED and SIGNED this 25th day of September, 2024.


SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE

¹ Defendants requested that the Court dismiss the Complaint "in its entirety," which the Court will construe as requesting that it be dismissed with prejudice. (Dkt. #10 at 5).